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11 **Attorneys for Plaintiff**

12 **UNITED STATES DISTRICT COURT**

13 **CENTRAL DISTRICT OF CALIFORNIA**

14 MARK HUTNYAN,)	CASE NO.
15 Plaintiff,)	COMPLAINT FOR DAMAGES FOR
16 vs.)	VIOLATION OF CIVIL RIGHTS
17 DIANE CAFFERATA HUTNYAN;)	
18 KRISTIAN HERZOG Also Known As)	
19 KRIS HERZOG, Individually and)	
20 Doing Business As THE BODYGUARD)	
21 GROUP OF BEVERLY HILLS;)	
22 COUNTY OF LOS ANGELES;)	
23 RICKY TYSON; EDDIE CARTER;)	
24 GLENN VALVERDE;)	
25 NICOLAS JOHNSTON;)	
26 GERMAINE MOORE;)	
27 CITY OF MANHATTAN BEACH;)	
28 RYAN SMALL; CHAD SWANSON;)	
29 CHRIS NGUYEN; TERESA MANQUEROS;)	
30 and DOES 1 to 10, Inclusive,)	
31 Defendants.)	
32)	
33)	
34)	

35 COMES NOW plaintiff MARK HUTNYAN who alleges as follows:

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JURISDICTION AND VENUE

1. This civil action is brought to redress alleged deprivations of constitutional and fundamental rights as protected under 42 U.S.C. §§ 1983 and 1988, the Fourth and Fourteenth Amendments of the United States Constitution, and under California law.

2. Jurisdiction is based on 28 U.S.C. §§ 1331 and 1343(a)(1), (2), (3) and (4), and the above-mentioned statutory and constitutional provisions.

3. The United States District Court for the Central District of California has supplemental jurisdiction over any and all state law claims alleged in this Complaint under 28 U.S.C. § 1337(a).

4. Venue is proper in the Central District of California under 28 U.S.C. § 1391(b) and (c) in that a substantial part of the events and injury occurred in the County of Los Angeles, State of California.

PARTIES

5. Plaintiff MARK HUTNYAN is, and at all times relevant herein was, a resident of the County of Los Angeles, State of California.

6. Defendant DIANE CAFFERATA HUTNYAN is, and at all times relevant herein was, a resident of the County of Los Angeles, State of California.

7. Defendant DIANE CAFFERATA HUTNYAN is, and at all times relevant herein was, licensed to engage in the practice of law, as an attorney and partner of Quinn Emanuel Urquhart & Sullivan, LLP ("Quinn Emanuel").

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1 8. Defendant KRISTIAN HERZOG also known as KRIS HERZOG
2 ("HERZOG") is, and at all times relevant herein was, an individual
3 residing in the County of Los Angeles, State of California.
4 Plaintiff is further informed and believes and thereon alleges
5 that KRISTIAN HERZOG also known as KRIS HERZOG Doing Business As
6 THE BODYGUARD GROUP OF BEVERLY HILLS ("THE BODYGUARD GROUP"), at
7 all times relevant herein was, and now is a business organization,
8 form unknown, organized and existing under and by virtue of the
9 laws of the State of California, with a principal place of business
10 located in the County of Los Angeles, State of California.

11 9. Defendant COUNTY OF LOS ANGELES is, and at all times
12 relevant herein was, a public entity, within the County of Los
13 Angeles, and existing under the laws of the State of California.
14 Plaintiff is informed and believes and thereon alleges that the
15 COUNTY OF LOS ANGELES is authorized to establish certain departments
16 for enforcing the laws and protecting the welfare of its citizens.
17 Plaintiff is informed and believes and thereon alleges that at all
18 times mentioned herein, the COUNTY OF LOS ANGELES was responsible to
19 oversee the operation, management and supervision of the Los Angeles
20 County Sheriff's Department and Los Angeles County Probation
21 Department, as well as sheriff deputies, probation officers and
22 employees.

23 10. Plaintiff is informed and believes and thereon alleges
24 that defendant RICKY TYSON is, and at all times relevant herein was,
25 a resident of the County of Los Angeles, State of California, and at
26 all times mentioned herein, is and was a duly appointed and acting
27 officer and/or employee or agent of the County of Los Angeles
28 Sheriff's Department, subject to the oversight and supervision of,

1 and acting under color of law, to wit, under color of the statutes,
2 ordinances, regulations, policies, customs and usages of defendant
3 COUNTY OF LOS ANGELES.

4 11. Plaintiff is informed and believes and thereon alleges
5 that defendant EDDIE CARTER is, and at all times relevant herein
6 was, a resident of the County of Los Angeles, State of California,
7 and at all times mentioned herein, is and was a duly appointed and
8 acting sheriff deputy and/or employee or agent of the County of Los
9 Angeles Sheriff's Department, subject to the oversight and
10 supervision of, and acting under color of law, to wit, under color
11 of the statutes, ordinances, regulations, policies, customs and
12 usages of defendant COUNTY OF LOS ANGELES.

13 12. Plaintiff is informed and believes and thereon alleges
14 that defendant GLENN VALVERDE is, and at all times relevant herein
15 was, a resident of the County of Los Angeles, State of California,
16 and at all times mentioned herein, is and was a duly appointed and
17 acting sheriff deputy and/or employee or agent of the County of
18 Los Angeles Sheriff's Department, subject to the oversight and
19 supervision of, and acting under color of law, to wit, under color
20 of the statutes, ordinances, regulations, policies, customs and
21 usages of defendant COUNTY OF LOS ANGELES.

22 13. Plaintiff is informed and believes and thereon alleges
23 that defendant NICOLAS JOHNSTON is, and at all times relevant herein
24 was, a resident of the County of Los Angeles, State of California,
25 and at all times mentioned herein, is and was a duly appointed and
26 acting sheriff deputy and/or employee or agent of the County of
27 Los Angeles Sheriff's Department, subject to the oversight and
28 supervision of, and acting under color of law, to wit, under

1 color of the statutes, ordinances, regulations, policies, customs
2 and usages of defendant COUNTY OF LOS ANGELES.

3 14. Plaintiff is informed and believes and thereon alleges
4 that defendant GERMAINE MOORE is, and at all times relevant herein
5 was, a resident of the County of Los Angeles, State of California,
6 and at all times mentioned herein, is and was a duly appointed and
7 acting probation officer and/or employee or agent of the County of
8 Los Angeles, subject to the oversight and supervision of, and acting
9 under color of law, to wit, under color of the statutes, ordinances,
10 regulations, policies, customs and usages of defendant COUNTY OF
11 LOS ANGELES.

12 15. Defendant CITY OF MANHATTAN BEACH is, and at all times
13 relevant herein was, a public entity, existing under the laws of
14 the State of California. Plaintiff is informed and believes and
15 thereon alleges that the CITY OF MANHATTAN BEACH is authorized to
16 establish certain departments for enforcing the laws and protecting
17 the welfare of its citizens. Plaintiff is informed and believes and
18 thereon alleges that at all times mentioned herein, the CITY OF
19 MANHATTAN BEACH was responsible to oversee the operation, management
20 and supervision of the Manhattan Beach Police Department, as well as
21 its officers and employees.

22 16. Plaintiff is informed and believes and thereon alleges
23 that defendant RYAN SMALL is, and at all times relevant herein was,
24 a resident of the County of Los Angeles, State of California, and at
25 all times mentioned herein, is and was a duly appointed and acting
26 lieutenant and/or employee or agent of defendant CITY OF MANHATTAN
27 BEACH through the Manhattan Beach Police Department, subject to the
28 oversight and supervision of, and acting under color of law, to wit,

1 under color of the statutes, ordinances, regulations, policies,
2 customs and usages of defendant CITY OF MANHATTAN BEACH.

3 17. Plaintiff is informed and believes and thereon alleges
4 that defendant CHAD SWANSON is, and at all times relevant herein
5 was, a resident of the County of Los Angeles, State of California,
6 and at all times mentioned herein, is and was a duly appointed and
7 acting officer and/or employee or agent of defendant CITY OF
8 MANHATTAN BEACH, subject to the oversight and supervision of, and
9 acting under color of law, to wit, under color of the statutes,
10 ordinances, regulations, policies, customs and usages of defendant
11 CITY OF MANHATTAN BEACH.

12 18. Plaintiff is informed and believes and thereon alleges
13 that defendant CHRIS NGUYEN is, and at all times relevant herein
14 was, a resident of the County of Los Angeles, State of California,
15 and at all times mentioned herein, is and was a duly appointed and
16 acting officer and/or employee or agent of defendant CITY OF
17 MANHATTAN BEACH, subject to the oversight and supervision of, and
18 acting under color of law, to wit, under color of the statutes,
19 ordinances, regulations, policies, customs and usages of defendant
20 CITY OF MANHATTAN BEACH.

21 19. Plaintiff is informed and believes and thereon alleges
22 that defendant TERESA MANQUEROS is, and at all times relevant herein
23 was, a resident of the County of Los Angeles, State of California,
24 and at all times mentioned herein, is and was a duly appointed
25 and acting officer and/or employee or agent of defendant CITY OF
26 MANHATTAN BEACH, subject to the oversight and supervision of, and
27 acting under color of law, to wit, under color of the statutes,
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1 ordinances, regulations, policies, customs and usages of defendant
2 CITY OF MANHATTAN BEACH.

3 20. Plaintiff is informed and believes and thereon alleges
4 that all defendants, named and unnamed, are, and at all times
5 relevant herein were, duly appointed officers and/or employees or
6 agents of defendants COUNTY OF LOS ANGELES and/or CITY OF MANHATTAN
7 BEACH, subject to the oversight and supervision of, and acting under
8 color of law, to wit, under color of the statutes, ordinances,
9 regulations, policies, customs and usages of the COUNTY OF LOS
10 ANGELES and/or CITY OF MANHATTAN BEACH.

11 21. Plaintiff is ignorant of the true names and capacities,
12 whether individual, entity, corporate, partnership, associate, or
13 otherwise, of defendants sued herein as DOES 1 to 10, Inclusive,
14 and therefore, sues these defendants by such fictitious names.
15 Plaintiff will amend this Complaint to allege their true names
16 and capacities when the same have been ascertained. Plaintiff
17 is informed and believes and thereon alleges that each of said
18 fictitiously named defendants is responsible in some manner for
19 the occurrences alleged herein.

20 22. Plaintiff is informed and believes and thereon alleges that
21 at all times mentioned herein, defendants, and each of them, acted
22 as the agents, servants, employees, employers, principals, and/or
23 representatives of each of the remaining defendants, and each of
24 them, and were acting within the course and scope of said agency,
25 service, and employment, and with the knowledge, consent, authority,
26 and permission of each of their co-defendants, and each had a legal
27 duty to oversee and supervise the hiring, conduct and employment of
28 their co-defendants.

23. Plaintiff is informed and believes and thereon alleges that each and every wrongful illegal act or omission by the defendants complained of herein was done with the express or implied approval, knowledge and consent, either actual or constructive, of all other defendants, and each defendant has had actual or constructive knowledge of, and has ratified and approved, the acts and omissions of the other defendants, both named herein and fictitiously named.

24. Plaintiff is informed and believes and thereon alleges
that at all times mentioned herein, each of the defendants
acted in concert and furtherance of each others' interests.

NOTICE OF CLAIM

25. In compliance with California Government Code §810, et seq., on September 23, 2016, claims were timely filed against, and served upon, both the COUNTY OF LOS ANGELES and the CITY OF MANHATTAN BEACH, as governmental agencies, within six (6) months of March 25, 2016, the date the subject incident occurred. On October 20, 2016, the claim was rejected by the CITY OF MANHATTAN BEACH. On November 7, 2016, the claim was rejected by the COUNTY OF LOS ANGELES.

STATEMENT OF FACTS

26. On or about March 25, 2016 and March 26, 2016, at plaintiff MARK HUTNYAN's residence, located at 224 32nd Street, Manhattan Beach, California (the "Home"), defendants, and each of them, unlawfully and forcefully entered the Home without any knocking, warning, or notice, in violation of plaintiff's civil rights as protected under the Fourth and Fourteenth Amendments of the United States Constitution and statutory law.

1 27. Plaintiff MARK HUTNYAN and defendant DIANE CAFFERATA
2 HUTNYAN ("MRS. HUTNYAN") were married on July 4, 1993.

3 28. On March 5, 2015, after nearly 22 years of marriage, MRS.
4 HUTNYAN filed for dissolution of marriage against MARK HUTNYAN in
5 the Los Angeles Superior Court, bearing case number: BD616691.

6 29. On or about March 3, 2015, just prior to MRS. HUTNYAN
7 filing her petition for dissolution of marriage, plaintiff MARK
8 HUTNYAN and defendant MRS. HUTNYAN had entered into and executed a
9 Marital Settlement Agreement, wherein plaintiff MARK HUTNYAN was
10 awarded temporary sole possession of the Home. In accordance with
11 this Agreement, defendant MRS. HUTNYAN vacated the Home.

12 30. Approximately one full year later, while plaintiff MARK
13 HUTNYAN still maintained sole possession of the Home pursuant to the
14 fully executed Marital Settlement Agreement, plaintiff is informed
15 and believes and thereon alleges that defendant MRS. HUTNYAN retained
16 the services of defendants HERZOG, a retired police officer, and THE
17 BODYGUARD GROUP to enter the Home with defendant MRS. HUTNYAN armed
18 with weapons to harass, threaten, intimidate plaintiff MARK HUTNYAN.

19 31. Plaintiff is informed and believes and thereon alleges that
20 during the course and scope of defendant HERZOG's bodyguard business,
21 he retains and privately employs law enforcement officers, including
22 Los Angeles County Sheriff Deputies and other employees and agents
23 of defendant COUNTY OF LOS ANGELES, including but not limited to,
24 defendants RICKY TYSON, EDDIE CARTER, GLENN VALVERDE, NICOLAS
25 JOHNSTON, and GERMAINE MOORE (collectively, "COUNTY EMPLOYEES")
26 to work and perform services on various assignments, including
27 work and services for MRS. HUTNYAN.

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1 32. Plaintiff is informed and believes and thereon alleges that
2 defendant COUNTY OF LOS ANGELES knew or should have known that its
3 officers, including defendant COUNTY EMPLOYEES, routinely worked and
4 continue to work off-duty in various security positions, including
5 work with and for defendants HERZOG and THE BODYGUARD GROUP.

6 33. Plaintiff is informed and believes and thereon alleges
7 that defendant MRS. HUTNYAN and her employer law firm, Quinn Emanuel,
8 had previously retained defendants HERZOG and THE BODYGUARD GROUP to
9 perform services on behalf of defendant MRS. HUTNYAN, Quinn Emanuel
10 and their legal clients, that defendant MRS. HUTNYAN became aware of
11 and retained the services of defendants HERZOG and THE BODYGUARD
12 GROUP based on her employment with Quinn Emanuel, and further that
13 Quinn Emanuel knew and was aware of defendant MRS. HUTNYAN's
14 retention of defendants HERZOG and THE BODYGUARD GROUP.

15 34. On or about March 23, 2016, defendants HERZOG and/or COUNTY
16 EMPLOYEES notified defendant CITY OF MANHATTAN BEACH through the
17 Manhattan Beach Police Department in writing via e-mail that defend-
18 ants HERZOG and COUNTY EMPLOYEES intended to enter the Home with
19 defendant MRS. HUTNYAN armed with weapons and wearing body cameras.

20 35. On or about March 23, 2016, defendants HERZOG and/or COUNTY
21 EMPLOYEES further advised defendant CITY OF MANHATTAN BEACH through
22 the Manhattan Beach Police Department in writing via e-mail that
23 plaintiff MARK HUTNYAN would make a "fake" 911 telephone call to
24 defendant Manhattan Beach Police Department once defendants HERZOG,
25 COUNTY EMPLOYEES, and MRS. HUTNYAN entered the Home.

26 36. On or about March 23, 2016, defendants HERZOG and/or COUNTY
27 EMPLOYEES further advised defendant CITY OF MANHATTAN BEACH through a
28 telephone conversation with defendant RYAN SMALL, Lieutenant of the

1 Manhattan Beach Police Department, that defendants HERZOG and COUNTY
2 EMPLOYEES intended to enter the Home with defendant MRS. HUTNYAN
3 armed with weapons and wearing body cameras.

4 37. On or about March 25, 2016, defendants HERZOG and/or COUNTY
5 EMPLOYEES called defendant CITY OF MANHATTAN BEACH and spoke with
6 dispatch of the Manhattan Beach Police Department to report that
7 they were near to, or were already at the Home with defendant
8 MRS. HUTNYAN, were armed, and they were going to enter the Home,
9 by force if necessary, because the husband, plaintiff MARK HUTNYAN,
10 was "squatting in the house", in that defendant MRS. HUTNYAN was
11 the "owner" of the Home, and further that plaintiff MARK HUTNYAN
12 was "inebriated most of the time". During this conversation with
13 defendant CITY OF MANHATTAN BEACH through dispatch of the Manhattan
14 Beach Police Department, defendants HERZOG and/or COUNTY EMPLOYEES
15 referred to plaintiff MARK HUTNYAN as "the suspect", and referred to
16 defendant MRS. HUTNYAN as "the victim".

17 38. On or about March 25, 2016, during the late evening, between
18 approximately 10:00 and 10:30 p.m., defendants HERZOG and five armed
19 COUNTY EMPLOYEES clad in tactical uniform gear and wearing body
20 cameras, and defendant MRS. HUTNYAN did unlawfully enter the Home
21 by force using the services of a locksmith who used a drill or other
22 equipment upon the lock of the front door of the Home to break in
23 and gain access, and did unlawfully invade and search the Home.
24 Plaintiff MARK HUTNYAN was inside the Home alone at the time.
25 Plaintiff MARK HUTNYAN was struck on his arm and upon his body
26 during this unlawful break-in and invasion into the Home. Plaintiff
27 MARK HUTNYAN did not consent to this invasion into the Home.

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1 39. On or about March 25, 2016, during this invasion, plaintiff
2 MARK HUTNYAN was harassed, threatened, intimidated, and was told by
3 defendants HERZOG, five armed COUNTY EMPLOYEES, and defendant MRS.
4 HUTNYAN that if plaintiff MARK HUTNYAN refused to provide them with
5 the keys to the Home, the hired locksmith, who was present at the
6 time, would forcibly open all of the other locks to the Home.

7 40. On or about March 25, 2016, during this invasion,
8 defendants HERZOG, five armed COUNTY EMPLOYEES, and defendant
9 MRS. HUTNYAN further harassed, threatened, intimidated, and told
10 plaintiff MARK HUTNYAN that they would start by forcibly opening
11 the lock located between the residence and the garage, and that
12 such action could very well cause damage to plaintiff MARK HUTNYAN'S
13 cars which were parked in the garage.

14 41. On or about March 25, 2016, during this invasion,
15 defendants HERZOG, five armed COUNTY EMPLOYEES, and defendant
16 MRS. HUTNYAN further harassed, threatened, intimidated, and told
17 plaintiff MARK HUTNYAN that he had to move his cars from the garage
18 so that defendant MRS. HUTNYAN could gain access with her own
19 vehicle(s).

20 42. On or about March 25, 2016, during this invasion, plaintiff
21 MARK HUTNYAN, unaware of what was occurring, did immediately call
22 911, and stated in detail to defendant CITY OF MANHATTAN BEACH
23 through dispatch of the Manhattan Beach Police Department what
24 was happening to him at the Home. Plaintiff retreated in fear to
25 his bedroom.

26 43. On or about March 25, 2016, during this invasion, defendants
27 CHAD SWANSON, CHRIS NGUYEN and TERESA MANQUEROS ("CITY EMPLOYEES"),
28 police officers employed by defendant CITY OF MANHATTAN BEACH through

1 the Manhattan Beach Police Department, arrived to the Home, but
2 rather than impartially investigate the incident of that evening, the
3 CITY EMPLOYEES failed to follow proper City of Manhattan Beach Police
4 Department procedures in the investigation before, during, and after
5 this invasion at the Home occurred.

6 44. Despite being aware and possessed with the knowledge before
7 this invasion into the Home on or about March 25, 2016, defendant
8 CITY OF MANHATTAN BEACH, through defendant CITY EMPLOYEES of the
9 Manhattan Beach Police Department, failed to take any measures to
10 investigate, inquire, assess, act upon, intervene, or determine the
11 legality or illegality of this invasion into the Home of plaintiff
12 MARK HUTNYAN, and failed to follow proper police procedures.

13 45. On or about March 25, 2016, following this invasion and as
14 a result of the harassment, threats and intimidation by defendants,
15 plaintiff MARK HUTNYAN was forced to, and did leave his Home that
16 evening out of fear, worry, anxiety, and the adverse affect upon his
17 body and mind, and temporarily resided at a hotel.

18 46. Prior to, and during this invasion into the Home on or
19 about March 25, 2016, defendants ignored the explanation provided by
20 plaintiff MARK HUTNYAN, and instead chose to, and did act illegally.
21 The actions and inactions by defendants shock the conscience and
22 demonstrate a deliberate indifference and conscious disregard of
23 plaintiff MARK HUTNYAN's life, liberty, well-being, and in violation
24 of his civil and other rights. Further, the actions and inactions
25 by defendants were objectively unreasonable under the circumstances,
26 and done in bad faith to intentionally harm plaintiff MARK HUTNYAN.

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1 47. As set forth herein, due to the actions and inactions by
2 defendants, plaintiff MARK HUTNYAN has suffered injuries and damages,
3 as set forth herein.

4 48. As set forth herein, defendant COUNTY OF LOS ANGELES through
5 the Los Angeles County Sheriff's Department and Probation Department,
6 and defendant CITY OF MANHATTAN BEACH through the Manhattan Beach
7 Police Department, caused plaintiff's injuries and damages through
8 their policies, practices, customs and/or usages that ratify the
9 abuse and misuse of police power and the use of unnecessary and
10 unreasonable means by defendants COUNTY EMPLOYEES and CITY EMPLOYEES.

11 FIRST CAUSE OF ACTION FOR DEPRIVATION OF RIGHTS

12 UNDER THE FOURTH AND FOURTEENTH AMENDMENTS

13 AND 42 U.S.C. § 1983 AGAINST ALL DEFENDANTS

14 49. Plaintiff hereby repeats and realleges each and every
15 allegation contained in paragraphs 1 through 48, inclusive, of
16 this Complaint as though set forth at length herein.

17 50. The Fourth Amendment of the United States Constitution
18 states, "The right of the people to be secure in their persons,
19 houses, papers, and effects, against unreasonable searches...shall
20 not be violated..."

21 51. The Fourteenth Amendment of the United States Constitution
22 states, "...nor shall any State deprive any person of...liberty, or
23 property, without due process of law..."

24 52. 42 U.S.C. § 1983 (violation of civil rights) states, "Every
25 person, who under color of any statute, ordinance, regulation,
26 custom, or usage, of any State...subjects, or causes to be subjected,
27 any citizen of the United States or other person within its
28

jurisdiction, thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law...."

53. In doing the acts set forth in this Complaint, defendants COUNTY EMPLOYEES and CITY EMPLOYEES conspired and acted in concert with each other and with the other defendants, and under the color of the authority and pretense of the statutes, ordinances, regulations, customs, or usages, of defendants COUNTY OF LOS ANGELES and CITY OF MANHATTAN BEACH in authorizing, directing, and/or causing plaintiff MARK HUTNYAN to suffer excessive force in entering the Home, conducting an unlawful search of the Home and his personal property, and committing unlawful harassment, threats, coercive conduct and intimidation, which was unreasonable and done intentionally, willfully, maliciously, with a deliberate indifference and/or with a reckless disregard for the probable consequences of such actions; was done without lawful justification or reason; and was designed to and did cause injuries in violation of plaintiff MARK HUTNYAN's rights as guaranteed under 42 U.S.C. § 1983, and the Fourth and Fourteenth Amendments to the United States Constitution, including the right to be free from an unreasonable search of the Home, and of plaintiff MARK HUTNYAN's papers and effects, the right to be free from the use of excessive, unreasonable and unjustified force, and the right to be free from the use of unlawful harassment, threats, coercive conduct and intimidation, which was unreasonable and done intentionally, willfully, maliciously, with a deliberate indifference and/or with a reckless disregard for the probable consequences of such actions.

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1 54. As a proximate result of the conduct of defendants, and each
2 of them, plaintiff MARK HUTNYAN suffered serious injuries to his
3 health, strength, and activity, including but not limited to,
4 injuries to his body, shock to his nervous system, and emotional
5 injuries, all of which have caused, now cause, and will continue
6 to cause plaintiff MARK HUTNYAN great physical and mental pain and
7 suffering, all to plaintiff MARK HUTNYAN's general and special
8 damages in an amount according to proof at trial.

9 55. The conduct of defendants COUNTY EMPLOYEES, CITY EMPLOYEES,
10 MRS. HUTNYAN, HERZOG, and THE BODYGUARD GROUP was malicious,
11 oppressive, wanton and/or in reckless disregard of plaintiff MARK
12 HUTNYAN's rights entitling plaintiff to punitive damages against
13 these specific defendants.

14 56. By virtue of the provisions of 42 U.S.C. § 1988, plaintiff
15 MARK HUTNYAN is entitled to an award of attorneys' fees.

16
17 SECOND CAUSE OF ACTION FOR MUNICIPAL LIABILITY FOR
18 UNCONSTITUTIONAL CUSTOMS, POLICIES AND PRACTICES
19 IN VIOLATION OF 42 U.S.C. § 1983 AGAINST DEFENDANTS
20 COUNTY OF LOS ANGELES AND CITY OF MANHATTAN BEACH

21 57. Plaintiff hereby repeats and realleges each and every
22 allegation contained in paragraphs 1 through 56, inclusive, of
23 this Complaint as though set forth at length herein.

24 58. In doing the acts set forth in this Complaint, defendants
25 COUNTY EMPLOYEES and CITY EMPLOYEES conspired and acted in concert
26 with each other and with the other defendants, and under the color of
27 authority and pretense of the statutes, ordinances, regulations,
28 customs, or usages, of defendants COUNTY OF LOS ANGELES and CITY OF

1 MANHATTAN BEACH in authorizing, directing, and/or causing plaintiff
2 MARK HUTNYAN to suffer excessive force in entering the Home,
3 conducting an unlawful search of the Home and his personal property,
4 and committing unlawful harassment, threats, coercive conduct and
5 intimidation, which was unreasonable and done intentionally,
6 willfully, maliciously, with a deliberate indifference and/or with
7 a reckless disregard for the probable consequences of such actions;
8 was done without lawful justification or reason; and was designed
9 to and did cause injuries in violation of plaintiff MARK HUTNYAN's
10 rights as guaranteed under 42 U.S.C. § 1983, and the Fourth and
11 Fourteenth Amendments to the United States Constitution, including
12 the right to be free from an unreasonable search of the Home, and
13 of plaintiff MARK HUTNYAN's papers and effects, and the right to be
14 free from the use of excessive, unreasonable and unjustified force.

15 59. Defendants COUNTY OF LOS ANGELES and CITY OF MANHATTAN BEACH
16 maintained policies, practices, customs, and usages, that condoned,
17 tolerated, and allowed its officers, including defendants COUNTY
18 EMPLOYEES and CITY EMPLOYEES, to commit and execute (1) the
19 unconstitutional use of unnecessary, unreasonable and/or excessive
20 force, unlawful searches and seizures, and unlawful harassment,
21 threats, coercion and intimidation; (2) the culture and promotion of
22 defendant COUNTY EMPLOYEES' unconstitutional use of unnecessary,
23 unreasonable and/or excessive force, unlawful searches and seizures,
24 and unlawful harassment, threats, coercion and intimidation to
25 achieve personal goals and ends; (3) defendant COUNTY EMPLOYEES' use
26 of police power for personal reasons and goals; and (4) defendant

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1 CITY EMPLOYEES' failure to take any measures to investigate, inquire,
2 assess, act upon, intervene, prevent, or determine the legality or
3 illegality of the conduct of defendant COUNTY EMPLOYEES.

4 60. Defendants COUNTY OF LOS ANGELES and CITY OF MANHATTAN
5 BEACH, by and through their supervisory employees and agents have,
6 and had, a mandatory duty of care to properly and adequately hire,
7 train, retrain, supervise and discipline its officers, including
8 defendants COUNTY EMPLOYEES and CITY EMPLOYEES, so as to avoid
9 unreasonable risk of harm to its citizens, including the deprivation
10 of civil rights.

11 61. Defendants COUNTY OF LOS ANGELES and CITY OF MANHATTAN
12 BEACH, together with various other officials, whether named or
13 unnamed, had either actual or constructive knowledge of the deficient
14 policies, practices, customs, and usages, as alleged herein. Despite
15 such knowledge, defendants COUNTY OF LOS ANGELES and CITY OF
16 MANHATTAN BEACH, failed to provide the training, monitoring,
17 supervision, intervention and/or control necessary to eradicate the
18 unnecessary, unreasonable and/or excessive use of force, unlawful
19 searches and seizures, and unlawful harassment, threats, coercion
20 and intimidation of its officers, including defendants COUNTY
21 EMPLOYEES and CITY EMPLOYEES, particularly when its officers work
22 off-duty in various security positions. As a result of such failure,
23 defendants COUNTY OF LOS ANGELES and CITY OF MANHATTAN BEACH ratified
24 its officers' disregard of constitutional and statutory rights as
25 alleged herein.

26 62. As a proximate result of the conduct of defendants COUNTY OF
27 LOS ANGELES and CITY OF MANHATTAN BEACH, together with various other
28 officials, whether named or unnamed, plaintiff MARK HUTNYAN suffered

1 serious injuries to his health, strength, and activity, including but
2 not limited to, injuries to his body, shock to his nervous system,
3 and emotional injuries, all of which have caused, now cause, and
4 will continue to cause plaintiff MARK HUTNYAN great physical and
5 mental pain and suffering, all to plaintiff MARK HUTNYAN's general
6 and special damages in an amount according to proof at trial.

7 63. The conduct of defendants COUNTY EMPLOYEES and CITY
8 EMPLOYEES was malicious, oppressive, wanton and/or in reckless
9 disregard of plaintiff MARK HUTNYAN's rights entitling plaintiff
10 to punitive damages against these specific defendants.

11 64. By virtue of the provisions of 42 U.S.C. § 1988, plaintiff
12 MARK HUTNYAN is entitled to an award of attorneys' fees.

13
14 THIRD CAUSE OF ACTION FOR INTENTIONAL INFILCTION OF
15 EMOTIONAL DISTRESS AGAINST DEFENDANTS, AND EACH OF THEM

16 65. Plaintiff hereby repeats and realleges each and every
17 allegation contained in paragraphs 1 through 64, inclusive, of
18 this Complaint as though set forth at length herein.

19 66. The conduct of defendants, and each of them, as set forth in
20 this Complaint, was extreme and outrageous conduct with the intention
21 of causing, or the reckless disregard of the probability of causing,
22 emotional distress.

23 67. As a proximate result of the conduct of defendants, and each
24 of them, as set forth in this Complaint, plaintiff MARK HUTNYAN
25 suffered severe emotional distress.

26 / / /
27 / / /
28 / / /

1 68. The conduct of defendants, and each of them, was malicious,
2 oppressive, wanton and/or in reckless disregard of plaintiff MARK
3 HUTNYAN's rights entitling plaintiff to punitive damages against
4 defendants, and each of them, except as to defendants COUNTY OF
5 LOS ANGELES and CITY OF MANHATTAN BEACH.

6

7 FOURTH CAUSE OF ACTION FOR ASSAULT AND BATTERY AGAINST
8 DEFENDANTS DIANE CAFFERATA HUTNYAN, KRISTIAN HERZOG
9 ALSO KNOWN AS KRIS HERZOG, INDIVIDUALLY AND DOING BUSINESS AS
10 THE BODYGUARD GROUP OF BEVERLY HILLS, COUNTY OF LOS ANGELES,
11 RICKY TYSON, EDDIE CARTER, GLENN VALVERDE, NICOLAS JOHNSTON,
12 GERMAINE MOORE, AND DOES 1 TO 10, INCLUSIVE

13 69. Plaintiff hereby repeats and realleges each and every
14 allegation contained in paragraphs 1 through 68, inclusive, of
15 this Complaint as though set forth at length herein.

16 70. In doing the acts set forth in this Complaint, defendants
17 intended to cause harm to plaintiff MARK HUTNYAN.

18 71. At all times relevant herein, plaintiff MARK HUTNYAN
19 believed that he would be struck about his body, and in fact was
20 struck upon his body by defendants during the invasion into his Home
21 on or about March 25, 2016.

22 72. Plaintiff MARK HUTNYAN did not consent to be struck about
23 his body, and defendants' conduct was a substantial factor in
24 bringing about the harm suffered by plaintiff MARK HUTNYAN.

25 73. As a proximate result of the conduct of defendants,
26 plaintiff MARK HUTNYAN suffered serious injuries to his health,
27 strength, and activity, including but not limited to, injuries to
28 his body, shock to his nervous system, and emotional injuries, all

1 of which have caused, now cause, and will continue to cause plaintiff
2 MARK HUTNYAN great physical and mental pain and suffering, all to
3 plaintiff MARK HUTNYAN's general and special damages in an amount
4 according to proof at trial.

5 74. The conduct of defendants was willful, wanton, malicious,
6 intentional, and oppressive, in that said defendants demonstrated a
7 conscious and deliberate disregard of the rights, safety, and
8 interests of others, including plaintiff MARK HUTNYAN, and therefore,
9 are guilty of oppression, malice and wanton disregard of the rights,
10 welfare and safety of plaintiff MARK HUTNYAN, and plaintiff MARK
11 HUTNYAN is entitled to an award of punitive damages against these
12 specific defendants.

13
14 WHEREFORE, plaintiff MARK HUTNYAN prays for judgment against
15 defendants, and each of them, as follows:

16 1. For general damages in an amount according to proof;
17 2. For special damages according to proof;
18 3. For punitive and exemplary damages as to the appropriate
19 defendants;
20 4. For attorneys' fees and costs of suit pursuant to
21 42 U.S.C. § 1988;
22 5. For prejudgment interest according to proof;
23 6. For costs of suit incurred herein; and
24 7. For such other and further relief as the Court may deem
25 just and proper.

26 DATED: January 23, 2017

LAW OFFICES OF LARRY M. BAKMAN
LAW OFFICES OF GARRY S. MALIN, APC

27 By: 
28

GARRY S. MALIN
Attorneys for Plaintiff

1 DEMAND FOR JURY TRIAL
2

3 Plaintiff hereby demands a trial by jury in this action.
4

5 DATED: January 23, 2017
6

LAW OFFICES OF LARRY M. BAKMAN
7 LAW OFFICES OF GARRY S. MALIN, APC
8

9 By:

10 
11 _____
12 GARRY S. MALIN
13 Attorneys for Plaintiff
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